

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 ANTHONY BROUSSARD,)
12 Petitioner,) No. C 08-02838 JW (PR)
13 vs.) ORDER OF TRANSFER
14 M.C. KRAMER, Warden,)
15 Respondent.)
16 _____) (Docket Nos. 4 & 5)

18 Petitioner, a California prisoner incarcerated at the Folsom State Prison in
19 Folsom, California, filed a pro se petition for a writ of habeas corpus pursuant to 28
20 U.S.C. § 2254. Petitioner claims that the decision by the California Board of Prison
21 Terms to deny him parole violates the conditions of his plea agreement.

22 A petition for a writ of habeas corpus made by a person in custody under the
23 judgment and sentence of a state court of a state that contains two or more federal
24 judicial districts may be filed in either the district of confinement or the district of
25 conviction. See 28 U.S.C. § 2241(d). Each of such districts shall have concurrent
26 jurisdiction to entertain the petition; however, the district court for the district where
27 the petition is filed may transfer the petition to the other district in the furtherance of
28 justice. See id. The petition indicates that petitioner was convicted in Santa Clara

United States District Court

For the Northern District of California

1 County, which lies within the venue of this district, and that he is confined in
2 Folsom (Sacramento County), which lies within the venue of the Eastern District of
3 California. See 28 U.S.C. 84(b).

4 Since the petition is directed to the manner in which a sentence is being
5 executed, the district of confinement is the preferable forum. See Dunne v. Henman,
6 875 F.2d 244, 249 (9th Cir. 1989) (“The proper forum to challenge the execution of
7 a sentence is the district where the prisoner is confined.”); see also Habeas L.R.
8 2254-3(b) (providing for transfer of venue to district of confinement “if the petition
9 is challenging the manner in which the sentence is being executed”). Because
10 petitioner is confined in the Eastern District, the petition will be transferred to that
11 district.

12 Accordingly, the above-titled action is hereby TRANSFERRED to the United
13 States District Court for the Eastern District of California. See 28 U.S.C. §§
14 1404(a), 2241(d); Habeas L.R. 2254-3. In light of this transfer, the Court will defer
15 to the Eastern District with respect to petitioner’s motion for leave to file exhibits
16 (Docket No. 4) and motion for appointment of counsel (Docket No. 5).

17 The clerk shall transfer this matter and terminate any pending motions.

18
19 DATED: November 24, 2008

20 
JAMES WARE
United States District Judge

21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE
NORTHERN DISTRICT OF CALIFORNIA

ANTHONY BROUSSARD,

Case Number: CV08-02838 JW

Petitioner,

CERTIFICATE OF SERVICE

v.

M.C. KRAMER, et al.,

Respondent.

/

I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District Court, Northern District of California.

That on 11/25/2008, I SERVED a true and correct copy(ies) of the attached, by placing said copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle located in the Clerk's office.

Anthony Broussard C-56988
Folsom State Prison
P. O. Box 950
Folsom, CA 95763

Dated: 11/25/2008

/s/ Richard W. Wiking, Clerk
By: Elizabeth Garcia, Deputy Clerk